

## **CHAPTER 50-06.2**

### **COMPREHENSIVE HUMAN SERVICES PROGRAMS**

#### **50-06.2-01. Purpose - Interpretation.**

It is the purpose of this chapter to establish a system for planning, coordinating, and providing comprehensive human services administered by county social service boards and human service centers. This chapter must be construed to effectuate the following public purposes:

1. To help individuals or their families to achieve, maintain, or support the highest attainable level of personal independence and economic self-sufficiency.
2. To prevent, remedy, or alleviate neglect, abuse, or exploitation of children and adults unable to protect their own interests.
3. To provide a continuum of community-based services adequate to appropriately sustain individuals in their homes and in their communities and to delay or prevent institutional care.
4. To preserve, rehabilitate, and reunite families.
5. To assist in securing referral or admission of individuals to institutional care when other forms of care are not appropriate.

#### **50-06.2-02. Definitions.**

As used in this chapter:

1. "Comprehensive human services" means services included in the comprehensive human services plan published by the state agency and human services required by state law or state agency regulation or federal law or regulation as a condition for the receipt of federal financial participation in programs administered under the provisions of this title.
2. "County agency" means the county social service board in each county of the state.
3. "County plan" means the county human services plan required by section 50-06.2-04.
4. "Family home care" means the provision of room, board, supervisory care, and personal services to an eligible elderly or disabled person by the spouse or by one of the following relatives, or the current or former spouse of one of the following relatives, of the elderly or disabled person: parent, grandparent, adult child, adult sibling, adult grandchild, adult niece, or adult nephew. The family home care provider need not be present in the home on a twenty-four-hour basis if the welfare and safety of the client is maintained.
5. "Human service center" means a regional center established under section 50-06-05.3.
6. "Qualified service provider" means a county agency or independent contractor which agrees to meet standards for service and operations established by the state agency.
7. "State agency" means the department of human services.

#### **50-06.2-03. Powers and duties of the state agency.**

The state agency has the following powers or duties under this chapter:

1. To act as the official agency of the state in the administration of the human services programs for individuals and families in conformity with state and federal requirements.
2. To prepare, at least biennially, a comprehensive human services plan which must:
  - a. Include human services determined essential in effectuating the purposes of this chapter.
  - b. Detail the human services identified by the state agency for provision by human service centers and the services which the county agencies have agreed to make available in approved county plans as a condition for the receipt of any funds allocated or distributed by the state agency.
3. To make available, through county agencies or human service centers, any or all of the services set out in the comprehensive human services plan on behalf of those

individuals and families determined to be eligible for those services under criteria established by the state agency.

4. To supervise and direct the comprehensive human services administered by county agencies and human service centers through standard-setting, technical assistance, approval of county and regional plans, preparation of the comprehensive human services plan, evaluation of comprehensive human services programs, and distribution of public money for services.
5. Within the limits of legislative appropriations and at rates determined payable by the state agency, to pay qualified service providers, which meet standards for services and operations, for the provision of the following services as defined in the comprehensive human services plan which are provided to individuals who, on the basis of functional assessments, income, and resources, are determined eligible for the services in accordance with rules adopted by the state agency:
  - a. Homemaker services;
  - b. Chore services;
  - c. Respite care;
  - d. Home health aide services;
  - e. Case management;
  - f. Family home care;
  - g. Personal attendant care;
  - h. Adult family foster care; and
  - i. Such other services as the state agency determines to be essential and appropriate to sustain individuals in their homes and in their communities and to delay or prevent institutional care.
6. To take actions, give directions, and adopt rules as necessary to carry out the provisions of this chapter.

For purposes of this chapter, resources do not include the individual's primary home and the first fifty thousand dollars of liquid assets.

#### **50-06.2-04. Powers and duties of county agencies.**

Each county agency has the following powers and duties under this chapter:

1. To administer comprehensive human services programs for individuals and families at the county level in conformity with state and federal requirements under the direction and supervision of the state agency.
2. To publish and provide to the state agency a county human services plan which must include the following:
  - a. A statement of the goals of county human services programs in the county.
  - b. Methods used to identify persons in need of services and the social problems to be addressed by the county human services programs.
  - c. A description of each county human service proposed and identification of the agency or person proposed to provide the service.
  - d. The amount of money proposed to be allocated to each service.
  - e. An agreement to make available those human services required by state law and by federal law or regulation as a condition for the receipt of federal financial participation in programs administered by county agencies under the provisions of this title.

The date of submission of the county human services plan to the state agency must be determined so that the plan is coordinated with the proposed and final comprehensive human services plan.

3. To make available the human services detailed in the comprehensive human services plan which the county agency has included in the approved county plan and to provide such other human services as the county agency determines essential in effectuating the purposes of this chapter within the county. To the extent funding is available under section 50-06.2-03 and chapter 50-24.1, the county plan must include the services enumerated in those sections. The county agency shall make these services available to any individual requesting service and determined eligible on the basis of functional

assessment. The individual shall pay for the services in accordance with a fee scale based on family size and income. The county agency may contract with any qualified service provider in its provision of those enumerated services.

4. To submit annually to the board of county commissioners a budget containing an estimate and supporting data, setting forth the county funds needed to carry out the provisions of this chapter.

#### **50-06.2-05. Appropriation of county funds.**

The board of county commissioners of each county shall annually appropriate and make available to the human services fund an amount sufficient to pay the local expenses of administration and provision of the human services required by state law and by federal law or regulation as a condition for the receipt of federal financial participation in programs administered by county agencies under the provisions of this title. For purposes of this section, the board of county commissioners may levy an annual tax for human services purposes not exceeding the limitation in subsection 34 of section 57-15-06.7, and if this amount is not sufficient, may levy for deficiency purposes under chapter 50-03.

#### **50-06.2-05.1. County share of service payments to elderly and disabled.**

Each county in this state shall reimburse the department of human services for amounts expended for service payments to the elderly and disabled in that county in excess of the amount provided by the federal government, in the amount of five percent.

#### **50-06.2-06. Freedom of choice.**

Each person eligible for services under this chapter, or the person's representative, must be free to choose among available qualified service providers that offer competitively priced services. The county agency shall inform each eligible applicant for services, provided under this chapter, of the identity of qualified service providers available to provide the service required by the applicant. The county agency shall make and document reasonable efforts to inform potential service providers of the anticipated need for services in the county.

#### **50-06.2-07. Disqualifying transfers.**

An individual is not eligible to receive benefits under this chapter if, at any time before or after making application, the individual or the individual's spouse has made any assignment or transfer of any asset for the purpose of making that individual eligible for the benefits. Assignment or transfer includes any action or failure to act that effects a transfer, renunciation, or disclaimer of any asset or interest in an asset that the individual might otherwise assert or have asserted, or which serves to reduce the amount that an individual might otherwise claim from a decedent's estate, a trust or similar device, or another individual obligated by law to furnish support.

#### **50-06.2-08 (Effective through June 30, 2015) Service payments for elderly and disabled - Independent home and community-based services case manager - Pilot program.**

The department shall establish a pilot program for the provision of independent case management services under the service payments for elderly and disabled program within a county located entirely within an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An independent home and community-based services case manager:

1. Is a social worker licensed under section 43-41-04 who:
  - a. (1) Meets the requirements of section 43-41-05 for the private practice of social work; or
  - (2) Works for an agency other than a county social service agency; and
  - b. Is enrolled as a qualified service provider to provide case management services under rules adopted by the state agency.
2. May:

- a. Determine eligibility for benefits under this chapter and periodically redetermine eligibility of individuals receiving benefits pursuant to this chapter under the direction and supervision of the state agency;
- b. Provide case management services to recipients; and
- c. Conduct initial and subsequent periodic functional assessments of applicants and recipients.

**50-06.2-09. (Effective through June 30, 2015) Medical assistance home and community-based services - Independent home and community-based services case manager - Pilot program.**

The department shall establish a pilot program for the provision of independent case management services under the medical assistance home and community-based services program within a county located entirely within an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An independent home and community-based services case manager:

- 1. Is a social worker licensed under section 43-41-04 who:
  - a. (1) Meets the requirements of section 43-41-05 for the private practice of social work; or
  - (2) Works for an agency other than a county social service agency; and
  - b. Is enrolled as a qualified service provider to provide case management services under rules adopted by the state agency.
- 2. May:
  - a. Determine eligibility for benefits under this chapter and periodically redetermine eligibility of persons receiving benefits pursuant to this chapter under the direction and supervision of the state agency;
  - b. Provide case management services to recipients; and
  - c. Conduct initial and subsequent periodic functional assessments of applicants and recipients.